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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,637	09/22/2003	Jonathan T. Miller	112.0010001	2176

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EXAMINER
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NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. . 10/668,637	Applicant(s) MILLER, JONATHAN T.	
	Examiner Chi Q Nguyen	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.  
4a) Of the above claim(s) 1-34 and 47-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35 and 38-43, 46 is/are rejected.
- 7) ☒ Claim(s) 36,37,44 and 45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office action is in response to the applicant's amendment filed on 6/20/2006.

#### ***Status of Claims***

Claims 1-34 have been withdrawn.

Claims 35-46 are pending and have been examined.

#### ***Election/Restrictions***

Newly submitted claims 47-52 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the newly submitted claims 47-52 are drawn to the different invention because the at least two atriums located on at least two of the levels, which never claimed before.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 47-52 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

#### ***Drawings***

Petition filed under 37 CFR. 1.84(a) (2) for color photographs and color drawings Figure 6 is acknowledged and have been granted.

#### ***Claim Objections***

Claims 39-44 and 46 are objected to because of the following informalities: regarding claim 39, line 6, the citation "and wherein each semi-public" should read –and

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wherein each said semi-public--. Appropriate correction is required. Claims 40-44 and 46 depending from claim 39 and are also objected to.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 41 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 41, the citation "wherein the entryway is connected to a number of different atrium" is indefinite and confusing because the independent claim 39 only cited one atrium. Clarification is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 35, 39-41, 43, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Poehler (US 6,182,408).

Regarding claim 35, Poehler teaches solarium integrated multi-unit building comprising a concrete foundation (Figs. 5-6, a number of units 12, 14, 16, 18, constructed on the concrete foundation, the number of units bordering at least a portion of an atrium 20 formed on the concrete foundation, each unit including an area having

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the appearance of a porch 52-58, respectively, with the porch connected to a primary entrance 62 into the unit and an entrance to the atrium, and a common area 50 for ingress and egress from outside the building connected to the atrium (Fig. 1)

Regarding claim 39, Poehler teaches multi-unit residential building (see abstract) with atrium 64 comprising a common entryway 66 leading to an atrium, the atrium bordered by a number of private units 42-48 in which the residents reside for primary ingress and egress of residents to and from their units, the atrium having a public area 50 formed therein, and the number of units each having a semi-public area 62 formed from at least a portion of the atrium and wherein each said semi-public area is adjacent to the public area 50, the number of units each having a front entrance to the unit facing to the atrium (see Fig. 1).

Regarding claim 40, Poehler teaches the claimed invention as stated, wherein each unit has a foyer adjacent to the front entrance (see Figure 1).

Regarding claim 41, Poehler teaches the claimed invention as stated, wherein the entryway 66 is connected to the atrium, and having a number of units bordering the atrium (see Fig. 1).

Regarding claim 43, Poehler teaches the claimed invention as stated, wherein each unit includes semi-public unit area 62 proximate to the unit and wherein the atrium includes a public area 50 positioned between each unit and each semi-public area (see Figure 1).

Regarding claim 46, wherein each of the semi-public areas 62 is arranged such that access from the public area 50 to each of the units as accomplished by passing through one of the semi-public areas and through the front entrance of the unit (Fig. 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poehler (US 6,182,408).

Regarding claim 38, Poehler teaches the structural elements for the claimed invention as stated except for the common area has an elevator therein. At the time of the invention, it would have been obvious to a person having ordinary skill in the art to have an elevator in the common area. The motivation for doing so would have been to transport disability person from the ground level to a top level.

Regarding claim 42, Poehler teaches the structural elements for the claimed invention as stated except for wherein a number of units are arranged back to back such that the back of one unit faces one atrium and the back of the other unit face the other atrium. At the time of the invention, it would have been obvious to a person having an ordinary skill in the art to arrange back to back units, which the back of one unit faces one atrium and the other of units face other atrium that would an obvious matter of rearrangement to suit the occupant's desires and convenience.

***Allowable Subject Matter***

Claims 36-37, and 44-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 6/20/2006 have been fully considered but they are not persuasive.

Applicant argues the prior does not teach the atrium formed on a concrete foundation. The examiner does not agree with the applicant's argument because it shows in Figs. 5 and 6, the concrete foundation is formed to reinforce the building structures.

Applicant argues that the prior art does not teach semi-public area is arranged such access from the public area to teach of the units as accomplished by passing through one of the semi-public areas and through the front entrance of the unit. The examiner does not agree with the applicant's argument because the prior art shows in Fig. 1, one of the semi-public areas 62 adjacent to the public area 50, which leads to each of the private units 42-48.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached at (571) 272-6848.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

9/15/2006

CQN

  
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